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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/633,439	08/01/2003	Donald J. Frasier	RORO-225	4549
54621 7590 12/27/2006 KRIEG DEVAULT LLP ONE INDIANA SQUARE SUITE 2800 INDIANAPOLIS, IN 46204-2079			EXAMINER TRAN, LEN	
			ART UNIT 1725	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		12/27/2006	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/633,439

Applicant(s)

FRASIER ET AL.

Examiner

Len Tran

Art Unit

1725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 37-49 and 63-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 37-49, 63-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1a. Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 37-49 and 63-80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paine (US 5,335,711), and further in view of Bollig et al (US 3,608,621).

Paine discloses an apparatus for pouring molten metal comprising a **rotating crucible**, a mechanical housing having a first and second chamber, a heater position adjacent the crucible, a stock of unmelted metal (figures), a pressure differential means includes a vacuum (figures 3 and 4).

However, Paine fails to disclose an upstanding first tube positioned within said crucible and having a first end located around said aperture and coupled to said bottom wall member and another second end that is closed, said first tube having at least one entrance for allowing the passage of molten metal from said crucible to said first tube; an upstanding second tube located within said first tube and having one end coupled to said bottom wall member and in fluid

Art Unit: 1725

communication with said aperture and another end defining an inlet from said first tube, said second tube has a first cavity adapted for receiving a volume of molten metal therein; and a passageway extending along said second tube for the passage of the molten metal from said at least one entrance to said inlet.

Bollig et al disclose an **upstanding first tube (5)** positioned within said **crucible (3)** and having a first end located around said **aperture (15)** and coupled to said bottom wall member and another second end that is closed, said first tube having at least one entrance (bottom entrance) for allowing the passage of molten metal from said crucible to said first tube; an **upstanding second tube (14)** located within said first tube and having one end coupled to said bottom wall member and in fluid communication with said aperture (15) and another end defining an inlet (at top of tube) from said first tube, said second tube has a first cavity adapted for receiving a volume of molten metal therein; and a passageway extending along said second tube for the passage of the molten metal from said at least one entrance to said inlet (figure 2). Bollig et al disclose the above differences for the purpose of mixing the gas and the metal at the lowest part of the crucible (col. 1, lines 35-37).

Therefore, it would have been obvious to an ordinary skill in the art at the time applicant's invention was made to have an outer tube and an inner tube as taught by Bollig et al, in Paine, in order to provide gas mixing with metal at the lowest part of the crucible.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 37-49 and 63-80 have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 1725

***Inquiry***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Len Tran whose telephone number is (571) 272-1184. The examiner can normally be reached on M-F, 8:30 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Len Tran  
Primary Examiner  
Art Unit 1725



December 19, 2006